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In re Application of : DECISION ON  
Frank MATICH :  
Application No.: 10/579,901 :  
PCT No.: PCT/AU2004/000826 :  
Int. Filing Date: 24 June 2004 : PETITION UNDER  
Priority Date: 25 June 2003 :  
Attorney's Docket No.: 22216-00014-US1 :  
For: METHOD OF, AND APPARATUS, ... :  
FORMED THEREBY : 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 19 May 2006. The required fee of \$65.00 (the surcharge under 1.492(h) for late filing of the executed declaration) has been charged to petitioner's Deposit Account No. 22-0185.

**BACKGROUND**

On 24 June 2004, this international application was filed, which claimed priority to earlier application filed on 25 June 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 25 December 2005. This international application became abandoned with respect to the United States at midnight on 25 December 2005 for failure to pay the required basic national fee.

On 19 May 2006, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration and the petition fee.

**DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

### **DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

The required fee of \$65.00 (the surcharge under 1.492(h) for late filing of the declaration) has been charged to Deposit Account No.: 22-0185 as authorized in the transmittal letter.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **19 May 2006**.



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